IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 18040 of 2004

Between:

Sri Namboori Suryanarayana S/o Ramakrishna Rao
M/s. Ramakrishna Traders rep by Partner Brokers Bazar,

Guntur

..... PETITIONER

AND

1 The Commercial Tax Officer, Main Bazar, Guntur
2 The Deputy Commercial Tax Officer,

Main Bazar, Vasundhara complex, Guntur

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue for order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in attaching the properties of the petitioners inlands Sy. No. 619 & 620 Plot NO.5, Ankireddi Palli Village, Guntur District admeasuring 130 Sq.Yards by issuing the forms 4 and 5 dt 31-7-2004 under R.R. Act for the alleged arrears of sales tax without serving the assessment orders prior to the recovery proceedings under the R.R. Act for the assessment year 1999-2000 as illegal, arbitrary and without authority of law and contrary to settle legal principles and consequently direct them to serve the assessment order copy or to issue certified copy of the assessment order for the assessment year 1999-2000

Counsel for the Petitioner: MR.SHAIK JEELANI BASHA

Counsel for the Respondents: Mr.K.Raji Reddy, Special Standing counsel for COMMERCIAL TAX

The Court at the stage of admission made the following :

ORAL ORDER: (per Sri BRSR.J)

In the counter affidavit filed by the Commercial Tax Officer, Main Bazar, Guntur Division, Guntur, it is stated in clear and categorical terms that “due to pressure of work, pre-assessment notice before completing the assessment order for the assessment year 1999-2000 was not issued to the petitioner”.

In such view of categorical admission made in the counter affidavit, the so called assessment order dated 28.9.2001 cannot be given effect to as it is a void order. Therefore, the consequential proceedings including the attachment notice issued by the respondents for the realization of the alleged dues from the petitioner may have to be quashed. That as on today, it cannot be said that the petitioner is due and liable to pay any amount of tax as such for the assessment year 1999-2000.

The writ petition is accordingly allowed to the extent indicated above. This order shall not preclude the respondents from issuing show cause notice to the petitioner to which the petitioner may file his objections, which shall be duly taken into consideration before the assessment order is passed by the competent authority. It is needless to direct that the assessment order shall be served upon the petitioner in accordance with law as provided for under the provisions of the Act and the Rules made thereunder. No costs.

(B.SUDERSHAN REDDY,J)

(C.V.RAMULU,J)

dated 13..04..2005

msv.

To

1 The Commercial Tax Officer, Main Bazar, Guntur
2 The Deputy Commercial Tax Officer,

Main Bazar, Vasundhara complex, Guntur

3 2 CD copies.